Federal Energy Regulatory Commission
Washington, DC 20426

APR 2 3 2013

Re: FOIA No. FY13-37
Response Letter

VIA EMAIL AND REGULAR MAIL
Mr. Michael Morisy
MuckRock News
DEPT MR 3363
P.O. Box 55819
Boston, MA 02205-5819
3363-74894577@requests.muckrock.com

Dear Mr. Morisy:

This is a response to your correspondence received March 12, 2013, in which you requested documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 C.F.R. § 388.108 (2011). Specifically, you requested "copies of contracts with Booz Allen Hamilton over the past 5 years. Any final reports generated and delivered by Booz Allen Hamilton to the agency over the past 5 years."

A search of the Commission's non-public files identified eight (8) documents as responsive to your request. Seven (7) of these documents are enclosed and being released to you in full. The documents that are being released consist of a Blanket Purchase Agreement and various contract modifications. One (1) document, the final report, is being withheld in its entirety pursuant to FOIA Exemptions 7(E)[1] and (F).[2]

FOIA Exemption 7

1. *FOIA Exemption 7(E)*

FOIA Exemption 7(E) affords protection to all law enforcement information that "would disclose techniques and procedures for law enforcement investigations or

[1] *See* 5 U.S.C. § 552(b)(7)(E).

[2] *See* 5 U.S.C. § 552(b)(7)(F).

prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." 5 U.S.C. § 552(b)(7)(E). The final report contains cyber security information related to the Commission's information technology program. That information is confidential and must remain so in order to preserve the effectiveness of those security measures. As such, release could risk circumvention of the law. *See Voinche v. FBI*, 940 Supp. 323, 332 (D.D.C 1996) (protecting information related to security for the Supreme Court building and other related procedures); *see also Unidad Latina En Accion v. DHS*, 253 F.R.D. 44, 50 (D. Conn. 2008) (holding that "any computer coding or web site information . . . is covered by both exemptions (b)(2) and (b)(7)(E), since the information is internal to DHS and would disclose information that might significantly risk circumvention of the law").

2. *FOIA Exemption 7(F)*

FOIA Exemption 7(F) protects from disclosure law enforcement information that "could reasonably be expected to endanger the life or physical safety of any individual."[3] As noted above, the information withheld in this instance consists of a final report that includes information regarding the Commission's information technology and cyber security program. Public release of the requested material through FOIA could allow that information to be obtained and utilized by individuals planning an attack on energy infrastructure thereby potentially endangering the lives and safety of citizens in the area of those projects. Accordingly, the information is being withheld under FOIA Exemption 7(F).

As provided by the FOIA and 18 C.F.R. § 388.110 of the Commission's regulations, any appeal from this determination must be filed within 45 days of the date of this letter. The appeal must be in writing, addressed to David Moernoff, Acting General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE,

[3] *Id.*

Washington, DC 20426, and clearly marked "Freedom of Information Act Appeal." Please also send a courtesy copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address. This completes our processing of your request.

Sincerely,

Leonard M. Tao

Leonard M. Tao
Director
Office of External Affairs